



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable James E. Kilday, Director
Motor Transportation Division
Railroad Commission of Texas
Austin, Texas

Dear Sir:

Opinion No. 0-4561
Re: Whether or not the Railroad
Commission must collect a
filing fee of \$25 on motions
to consolidate duplicate
rights held by owners of
certificates of convenience
and necessity.

We quote your request on the above situation as
follows:

"General Order No. 60 of the Railroad
Commission of Texas, Paragraph 8, provides:

"If the purchaser of a common carrier
certificate owns a certificate covering all
or a part of the route authorized under the
certificate he proposes to purchase, he shall
file as an exhibit a request to the Commis-
sion to consolidate the operations, if and when
the Commission approves the sale and transfer,
so as to eliminate the duplication of operat-
ing rights, pointing out in detail just what
part of the duplicate service is to be elimi-
nated."

"Paragraph a, of Section 17 of Article
911b, with reference to filing fees, provides
as follows:

"Every application for a certificate of
convenience and necessity shall be accompanied
by a filing fee in the sum \$25.00, which shall
be in addition to other fees and taxes and
shall be retained by the Commission whether the

Honorable James E. Kilday, Director, Page 2

certificate of convenience and necessity be granted or not.

"Paragraph (b), of Section 17, of Article 911b, provides:

"'Every application filed with the Commission for an order approving the lease or transfer of any certificate of convenience and necessity shall be accompanied by a filing fee in the sum of \$25.00, which fee shall be in addition to the other fees and taxes and shall be retained by the Commission whether the lease, sale or transfer of the certificate of convenience and necessity is approved or not.'

"The above quoted provisions of the Motor Carrier Act are the only ones pertaining to the payment of filing fees on applications filed with the Commission. The question has arisen as to whether or not a motion to consolidate certificates under the above quoted paragraph of General Order No. 60 requires an additional filing fee of \$25.00. The question has also arisen as to whether or not it is necessary for a carrier to accompany a motion to consolidate its operating right into one certificate with a filing fee of \$25.00 when such motion to consolidate is filed at the request of the Commission in an effort to bring about a unification of operating routes for the purpose of effectively policing motor carrier operations.

"Based upon the above and foregoing, will you please give us your opinion on the following:

"(1) Is it necessary for the Railroad Commission of Texas to collect a filing fee of \$25.00 on a motion to consolidate certificates of public convenience and necessity when said motion is filed in accordance with Paragraph 8 of General Order No. 60, Railroad Commission of Texas?

Honorable James E. Kilday, Director, Page 3

"(2) Is it necessary for the Railroad Commission of Texas to collect a filing fee of \$25.00 on a motion filed by a carrier at the request of the Commission to consolidate its operating route into one certificate?"

It appears that the filing fee of \$25.00 contemplated by the quoted provisions of Article 911b, above, refer only to the certificate which will grant rights to a carrier not heretofore held by him. This conclusion is implied from the language "which fee. . . shall be retained by the Commission whether the certificate. . . be granted or not."

We also note that General Order No. 60, above, provides that the purchaser of a new certificate which includes rights previously held by him shall file the motion to consolidate as an exhibit in connection with the application for transfer, etc., and as such application must be accompanied with the filing fee, we see no reason for acquiring an additional \$25.00 in such instances.

In situations where such consolidation is at the request of the Commission, no additional rights would inure to the carrier, and such motion does not amount to an application as same is impliedly defined in the Motor Carrier Law.

We, therefore, believe that it is not necessary for the Railroad Commission to collect the fee mentioned in either of the instances presented.

We trust that the above satisfactorily answers your inquiry.

APPROVED MAY 5, 1942

[Signature]
FIRST ASSISTANT
ATTORNEY GENERAL

AFH:LM

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *[Signature]*
Alfred F. Herbelin
Assistant

